



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF)
PNG TELECOMMUNICATIONS, INC. D/B/A POWERNET)
GLOBAL COMMUNICATIONS FOR AUTHORITY TO) ORDER
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES THROUGHOUT)
THE STATE OF NEW JERSEY)

DOCKET NO. TE03080669

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated August 22, 2003, PNG Telecommunications, Inc. d/b/a PowerNet Global Communications ("Petitioner" or "PNG") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide facilities-based competitive local exchange and interexchange telecommunications services throughout the State of New Jersey. Pursuant to the Open Public Records Act N.J.S.A. 47:1A-1 et seq., Petitioner has submitted its financial information under seal and has included a sworn affidavit with substantiation for confidential treatment in order to limit the availability of proprietary information.

PNG is a privately held corporation organized under the laws of the State of Ohio. Petitioner's principal offices are located at 100 Commercial Drive, Fairfield, Ohio 45014.

Petitioner has submitted copies of its Certification of Incorporation and Certificate of Good Standing from the State of Ohio and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, PNG was formed to provide facilities-based competitive local exchange and interexchange telecommunications services throughout New Jersey. Petitioner states that it currently provides resold local exchange service in California, Texas, Montana, Missouri, Wisconsin, Indiana, Illinois, Kentucky, Ohio, New York, Massachusetts and Florida. Petitioner further states that it also provides resold interexchange services in all states in the United States except for Alaska and Hawaii.

In its Petition, the Company seeks authority to provide facilities-based competitive local exchange and interexchange telecommunications services, within both inbound and outbound intra local access and transport area and inter local access and transport area ("interLATA") throughout the State of New Jersey. Petitioner states that it intends to provide this service through a combination of its own facilities and through the resale of the facilities of other certified carriers. Petitioner states that initially it will concentrate in the areas served by Verizon – New Jersey, Inc. According to the Petitioner, it plans to provide retail and wholesale voice long distance, toll free, calling card, dedicated voice, data and internet access lines, dial-up internet access and dial around services. Petitioner states that it will also offer primary rate interface offload for internet dial-up, integrated access and origination and termination services. Petitioner further states that wherever it offers basic local exchange service, Petitioner will provide, either directly or through arrangements with others, 911 and E911, white page directory listings, access to telephone relay, access to directory assistance, access to operator, equal access to long distance carriers and free blocking of 900- and 700- services so long as the same requirement applies to the incumbent local exchange carrier. Petitioner states that it will also provide equal access to interLATA long distance carriers and interconnection with other local exchange telephone companies on a nondiscriminatory basis. Petitioner states that it has not yet requested an interconnection agreement from Verizon – New Jersey, Inc. However, once its Petition for authority is approved, it expects to request an "opt-in" agreement from Verizon – New Jersey, Inc. Petitioner states that it will file a tariff for Board approval. The Petitioner states that it maintains a toll-free number for its customer service inquiries.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3 which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Fairfield, Ohio. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, PNG states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to PNG, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed PNG's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey subject to approval of its tariff. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is approved by the Board.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N.J.S.A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N.J.S.A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form is due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not

receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 10/23/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)
KRISTI IZZO
SECRETARY

IN THE MATTER OF THE PETITION OF PNG TELECOMMUNICATIONS, INC. D/B/A
POWERNET GLOBAL COMMUNICATIONS FOR AUTHORITY TO PROVIDE
LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS
SERVICES THROUGHOUT THE STATE OF NEW JERSEY

DOCKET NO. TE03080669

SERVICE LIST

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